

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FRASER MCDONOUGH  
ROTCHFORD,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

CASE NO. C24-5805JLR

ORDER

**I. INTRODUCTION**

Before the court is United States Magistrate Judge Brian A. Tsuchida's report and recommendation, in which he recommends that the court dismiss *pro se* Petitioner Fraser McDonough Rotchford's 28 U.S.C. § 2254 petition for writ of habeas corpus with prejudice. (R&R (Dkt. # 4); *see also* Prop. Petition (Dkt. # 1).) Mr. Rotchford did not file objections to the report and recommendation before the November 12, 2024 deadline. (*See* R&R at 8 (setting deadline); *see generally* Dkt.) Having reviewed the report and

1 recommendation, the relevant portions of the record, and the governing law, the court  
2 ADOPTS Magistrate Judge Tsuchida's report and recommendation, DISMISSES Mr.  
3 Rotchford's petition for writ of habeas corpus, and DENIES a certificate of appealability.

## 4 II. ANALYSIS

5 A district court has jurisdiction to review a magistrate judge's report and  
6 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "A judge of the court  
7 may accept, reject, or modify, in whole or in part, the findings or recommendations made  
8 by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "The statute makes it clear that the  
9 district judge must review the magistrate judge's findings and recommendations de novo  
10 *if objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114,  
11 1121 (9th Cir. 2003) (en banc) (emphasis in original).

12 Magistrate Judge Tsuchida recommends that the court dismiss Mr. Rotchford's  
13 petition because (1) Mr. Rotchford previously filed a habeas petition challenging his  
14 King County conviction, which the court dismissed as untimely and as presenting  
15 unexhausted claims; (2) Mr. Rotchford's claims are unexhausted; (3) the petition fails to  
16 set forth any facts showing relief is warranted under § 2254; and (4) Mr. Rotchford has  
17 neither paid the filing fee nor submitted a complete application to proceed in forma pauperis.  
18 (*See* R&R at 1-2.) Mr. Rotchford has not objected to Magistrate Judge Tsuchida's  
19 recommendation. (*See generally* Dkt.) The court has thoroughly examined the record  
20 before it and finds Magistrate Judge Tsuchida's reasoning persuasive in light of that  
21 record. The court has also independently reviewed Mr. Rotchford's petition and agrees  
22 with the reasoning and conclusions set forth in the report and recommendation.

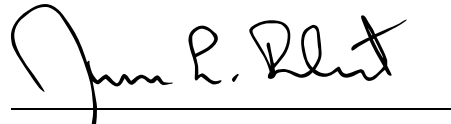
1 Accordingly, the court ADOPTS the report and recommendation, DISMISSES Mr.  
2 Rotchford's habeas corpus petition, and DENIES a certificate of appealability.

3 **III. CONCLUSION**

4 For the foregoing reasons, the court ORDERS as follows:

- 5 1. The court ADOPTS the report and recommendation (Dkt. # 4) in its entirety;  
6 2. The court DISMISSES Mr. Rotchford's habeas corpus petition (Dkt. # 1) with  
7 prejudice;  
8 3. The court DENIES issuance of a certificate of appealability for the reasons set  
9 forth in the report and recommendation (*see* R&R at 7); and  
10 4. The court DIRECTS the Clerk to send copies of this order to Mr. Rotchford  
11 and Magistrate Judge Tsuchida.

12 Dated this 15th day of November, 2024.

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15 JAMES L. ROBART  
16 United States District Judge  
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